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**Guide to Contractor
Overhead**

**Home Office
Overhead**
1

Project Overhead
2

**Payment for
Contractor Overhead**
4

Calculation Methods
6

Miscellaneous
6

Contact Information
7

Attachment A
8

Attachment B
9

This article supplements the [Guide to Contract Change Orders \(CO Guide\)](#)¹ and is intended to provide guidance regarding project and home office overhead and related topics. This article may be used as a guide for contracts based on the previous versions of the Standard Specifications.

This article references the department's *Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges (Standard Specifications)* adopted in 2004 and its current statewide special provisions.

The Standard Specifications establishes overhead as part of each bid item in the contract. Overhead is divided into two categories: home office and project overhead. This document primarily discusses project overhead. Home office is discussed here for the purposes of defining home office costs and documenting the decision to not pay home office overhead for damages.

Home Office Overhead

For added work, home office and project overhead compensation are included in the markups provided by Item 9 and the price quotes from contractors.

For damages, Article 4.4A.3 of the Standard Specifications and Article 4.4A.1c of Special Provision 004-012 stipulate the department will not compensate the contractor for home office overhead in case of delay claims.

This provision was the result of observations that contractor claims almost never met the stringent criteria of eligibility established by case law. The case law criterion is the basis for the department's denial of reimbursement for home office overhead for delays (damages).

The case law summarized follows:

- The project was delayed by excusable and compensable impacts.
- The contractor was effectively on standby during the delay. Contractors' crews and equipment remained at the project site while the problem was being resolved.
- The contractor was unable to take on other work, on or off the project, during the impact.

Home office overhead includes items not assigned to a specific project. Typical items include, but are not limited to the following:

- home office staff salaries
- software licensing and computer support staff
- home office equipment and facilities
- home office storage yards
- association dues
- travel for home office staff

¹All articles referenced in this article can be found under *Construction and Material Tips* on the [CST Intranet](#) or the [TxDOT Internet](#).

Verify home office overhead items are not included in project overhead or duplicated in labor burden.

Project Overhead

Considerations

Consideration of project overhead may be necessary for negotiating new items, adjustments to existing items of work due to significant changes in the character of the work and for addressing compensable impacts (delay damages). Compensable impacts are described in more detail in the department's *CO Guide* and *The Disputes and Claims Analysis Process*.¹

The section, "Payment for Contractor Overhead," will discuss project overhead from three perspectives:

1. extra work directed on a force account basis
2. development or adjustment of unit prices for significant changes in the character of work
3. damages for delays

Definition

Project overhead is an indirect cost. As a result, the on-site expenses involved are not directly chargeable to specific item(s) of work, yet are necessary for the prosecution of the project as a whole. Project overhead can include items such as superintendents and surveyors directly supporting multiple contracts in an area (if incurred, these costs should be distributed between projects).

Expenses directly attributable to production of more than one work item are direct costs (not overhead) and should be prorated to actual hours worked on each item. (Example: foremen overseeing multiple items or shared equipment and labor.)

Time Dependent

Project overhead costs are predominantly time dependent and incurred regardless of how much work is underway. When project completion time is extended due to a compensable impact, these time dependent costs continue to accrue due to the need to maintain required personnel, equipment and services at the project site. Project overhead is not compensable under the following conditions:

- ➔ The project was extended by added work. Negotiated or bid items contain profit and overhead. Therefore, payment of project overhead for extensions of project time as a result of added work or over-runs of existing bid items are not justified.
- ➔ The significant change or impact is not a controlling activity and does not increase the originally scheduled project duration.
- ➔ Additional overhead staff assigned to the project with the sole purpose of preparing a claim is not compensable (see further explanation below).

A rare exception for added work or over-runs is where the contractor can demonstrate that the markups (allowing for reasonable profit) provided by the limited number of added items are inadequate to cover the overhead costs of the project and it is impractical to reduce the amount of overhead. (Example: contractor acquires a new yard location at the end of the project to reduce overhead costs.)

Categories

The compensable time-related project overhead costs incurred on-site in support of the project can be divided into categories (see further discussion below for regional or area office personnel categories):

- ➔ *Superintendence*
The superintendence (part of the force account labor markup) is generally the salaried staff with higher level responsibilities such as planning the days' or weeks' tasks; allocating labor and equipment; managing material supply; and, in general, keeping the work on schedule. Their compensation continues regardless of the amount of work. The wages of foremen and the workers engaged in the production of work are considered direct labor cost.
- ➔ *Support Staff*
 - in-house or outside consultant engineering costs not associated with dispute or claim preparation; i.e., only those costs strictly related to administration for the specific project in question

¹All articles referenced in this article can be found under *Construction and Material Tips* on the [CST Intranet](#) or the [TxDOT Internet](#).

- on-site record keepers and office personnel
- project surveyors – when the duration of the surveyor services has been extended.
- ➔ *Jobsite Facilities:* leasing or rental rates (not purchase or barter) and maintenance of:
 - contractor’s yard
 - office trailers
 - storage facilities
 - yard fences
- ➔ *Services*
 - utilities
 - office equipment
 - supplies
 - postage
 - sanitary provisions
 - safety supplies, etc.
- ➔ *Equipment:* assigned to the overall project for the duration such as:
 - yard cranes for loading/unloading material (provided payment is not duplicated in an inefficiency analysis)
 - superintendents’ vehicles
 - surveyors’ vehicle and equipment
- ➔ *Miscellaneous*
 - employee per diem (review for possible duplication of items included in labor burden)
 - project-specific (non-commercial) plant, testing facilities and lease for plant location (provided payment is not duplicated in an inefficiency analysis)

One-time purchase costs for products normally consumed during the course of an individual project (such as, office furniture, computers, small tools, etc.) are not affected by project delays and not compensable as project overhead in cases of delay.

Please note that many of these costs may be reimbursable due to a termination. Termination may eliminate the means the contractor uses to recoup the cost of these items.

If a contractor does not maintain a field presence during a period of suspended work, the contractor may recover costs by claiming the demobilizing and remobilizing costs in lieu of the extended job site costs. If suspension occurs before the contractor mobilizes, compensable extended project overhead is limited to additional on-site cost that would not have been incurred (or above what would have been incurred) had the project not been suspended.

Equipment Considerations

Superintendents’ vehicles, surveyors’ vehicles, and yard equipment (overhead equipment) are permissible as overhead as their use may continue during delay periods and they cannot be assigned to discrete items of work.

When the equipment is not in use, this item should be charged at 50% of the *Rental Rate Blue Book*. When the equipment is in use performing overhead work, this item should be charged at 100% of the *Rental Rate Blue Book* plus operating costs. Particular attention should be given to the surveyors’ vehicle. Many times, surveyors can operate independent of project delay. As a result, this item may not be a legitimate overhead expense during the entire period of a delay.

Production equipment is equipment assigned to discrete item(s) of work. Production equipment should be handled separately from overhead in cases of delay or extended performance. During a delay, any equipment that performs work on bid items is production equipment, not overhead. Further discussion of production equipment during delays can be found in the article, [The Disputes and Claims Analysis Process](#).¹

In order to properly determine legitimate overhead expenses, it is important to understand what overhead costs are already contained within the *Rental Rate Blue Book*. The *Rental Rate Blue Book* has two components: ownership costs and operating costs. Each of these is described below in further detail.

¹All articles referenced in this article can be found under *Construction and Material Tips* on the [CST Intranet](#) or the [TxDOT Internet](#).

Ownership Costs

The ownership costs include depreciation, indirect costs, cost of facilities capital and major overhaul as follows:

- Depreciation Costs - The depreciation cost provides the method by which the contractor recovers the cost of equipment purchases. The contractor recoups the costs of these purchases through usage of the equipment over the equipment's expected life.

Since equipment has a finite useful life, project delays reduce the contractor's ability to recoup the cost of the equipment purchase. Payment of equipment rental rates for disruptions and inefficiencies cover the contractor's depreciation costs.

When equipment is idled or on stand-by in a delay, the specification provides for payment at 50% of the *Rental Rate Blue Book*. This reduced rate is intended to cover the contractor's ownership costs less major overhaul and other related maintenance costs that have, in essence, been deferred since the equipment is not operated.

- Indirect Equipment Costs - Equipment indirect costs consist mostly of overhead costs such as normal risk insurance and property taxes along with storage, security, mechanics supervision, inspection, licenses and record keeping.
- Cost of Facilities Capital - Cost of facilities capital (CFC), which is not the same as interest charges, is an allowance for the cost of money invested in machinery. This allowance can be claimed whether the machinery is purchased in cash or financed over time.
- Major Overhaul - The ownership rates include an allowance for major overhaul costs and necessary to keep a machine functional throughout its economic life. This allowance covers the periodic rebuilding of engines, transmissions, undercarriages and other major equipment components.

Operating Costs (Hourly Estimated)

The estimated operating cost per hour includes the following expenses:

- the cost of labor and parts needed for routine, daily servicing of the equipment (includes repairing and/or replacing small components [pumps, carburetors, injectors, filters, belts, gaskets and worn lines])
- the cost of operating expendables (including fuel and lubricants [filters, oil and grease])
- labor and the lube truck involved in lubrication
- tires
- ground engaging components (including pads, blades, bucket teeth)
- electricity costs (where applicable)

The above-referenced elements are included in the rental rate and should not be compensated separately as project overhead. It is important to note that fuel, lubricants, mechanics and service trucks are contained with the ownership and operating rates. Contractors' requests for compensation should be reviewed to verify that payment of the components listed above have not been duplicated. Examples of duplication include payment of stand-by and depreciation or payment of lube truck/mechanic and operating rates.

Payment for Contractor Overhead

The following information provides overhead payment procedures and calculation methods.

Extra Work Directed on a Force Account Basis

Force account basis is discussed in the [CO Guide](#).¹ When using the force account basis for extra work payment, use the markups established in the Standard Specifications. The force account markups for labor, material and equipment have two principal components: profit and all overhead.

Development of New Unit Prices Including Those for Significant Changes

If new unit prices are comparable to current unit prices for similar work, then additional justification is not required. When force account markups are used by the contractor to develop unit prices and the unit price seems unusually high, additional justification should be submitted.

¹All articles referenced in this article can be found under *Construction and Material Tips* on the [CST Intranet](#) or the [TxDOT Internet](#).

Profit and overhead at 15% (for equipment) and 25% (for labor and materials), respectively, are contractually assured for work performed on a force account basis only.

For development of new unit prices, the profit and overhead markups are negotiable at the discretion of the change order signature authority. The focus here is on total cost or unit prices, not the methods used to develop prices. In other words, if unit prices developed are reasonably close to prices expected for like work using current bid prices, document that this is the case and execute the change order.

When considering a contractor's profit and overhead markup, please note that a force account markup provides for project overhead costs even if the extra work does not extend the project. Refer to the [CO Guide](#)¹ for further discussion on development of unit prices.

The allowance for negotiated markups up to the force account levels includes those for the adjustment of existing bid prices due to significant changes in the character of the work, unless the adjustment is categorized as damages. For damages, only actual overhead costs are justified. This is discussed in the following section, "Reimbursement for Damages Due to Delays."

Reimbursement for Damages Due to Delays

Project overhead can be paid separately when the overall completion of the project is extended due to a compensable delay, but not for added work (one exception listed - when the contractor can demonstrate that the markups provided by a limited number of added items are inadequate to cover the overhead costs and it is impractical to reduce the amount of overhead). In the case of extra work, the new or adjusted prices include project overhead.

A delay may be due to a variety of causes including non-accessibility of site, inefficiencies, disruptions, absence of direction or any action/inaction on the part of the department. In order to pay project overhead, the delay must be for an issue which the department is responsible and the issue impacts the critical path, as a result, and extends the overall project duration.

*Special Provision 004-013 Section 4.4A, "Damages" (language is included in the previous Special Provision 004-012) disallows force account markups and home office overhead and explains:

For contractor damages, the intent is to reimburse the Contractor for actual expenses arising out of a compensable impact. No profit or markups, other than labor burden, will be allowed.

In lieu of the force account markups, *Special Provision 004-013 Section 4.4A.1.b, "Project Overhead," states:

Project overhead will be determined from actual costs that the Contractor will be required to document. Project overhead is defined as the administrative and supervisory expenses incurred at the work locations. When delay to project completion occurs, reimbursement for prime Contractor overhead will be made using the following options:

- *reimbursement at 6% (computed as daily cost dividing 6% or the original contract amount by the as-let number of working days) or*
- *as documented cost for the impact period.*

*NOTE: Special Provision 004-013 was effective for the May 2009 letting. The engineer may consider applications for resolution of issues for projects let prior to that date.

Article 4.4.A.1.b does not allow force account markups because the markups include profit. It is the department's position, and court opinions support the position, that contractors shall not profit from damages. Profit is included in work performed. A profit on damages would provide an incentive for contractors to maximize damages. The contractor is obligated to mitigate damages. The department is obligated to make the contractor whole. Therefore, for delay damages, only actual project overhead shall be paid.

Note, granting a time extension can create a presumption that the contractor may be entitled to project overhead. The reason for the time extension should be clearly documented as excusable and as either compensable or non-compensable. As noted in the first paragraph of this section, for added work that extends the project completion, the project overhead is considered to be built into the cost impact. Separate compensation for project overhead would be a duplicate compensation.

¹All articles referenced in this article can be found under *Construction and Material Tips* on the [CST Intranet](#) or the [TxDOT Internet](#).

Calculation Methods

For damages, project overhead will be reimbursed at 6% (computed as daily cost by dividing 6% of the original contract amount by the as-let number of working days) unless the contractor can justify higher actual cost. Justification for a higher cost must be in accordance with the criteria established by the department.

Miscellaneous

Subcontractor Issues

Typically, subcontractor costs are based on the unit of measure of the subcontracted item of work, which include subcontractor's overhead and profit.

Generally, subcontractors demobilize if their work is delayed. If the subcontractor work is delayed or extended by excusable impact, the costs could be compensable. If demobilization is not an option and the subcontractor's overhead staff and apurtenances maintain a *continuous, full-time* presence on the project, the costs could be compensable.

Subcontractor's overhead shall be based on actual justified expenses and not a flat 6%. For subcontractor delays and inefficiencies to be compensable, the prime contractor must be financially liable for the additional costs of the subcontractor. Prime contractor markups on subcontractor overhead considerations independent of project completion delays are not allowed.

Disputes and Claims Services

The department has taken the position that contractors considering in-house or consultant services for the sole purpose of developing disputes and claims is not compensable. Only services provided for the purposes of prosecution of the project are considered compensable. Services provided after completion of the project are not compensable.

Considerations for Purchase of Surplus Materials

For an exclusive subcontractor request, prime contractors may receive a 5% markup. One additional 5% markup from a subcontractor who is responsible for the material purchase and handling will be allowed. This 5% markup is for administrative costs. Refer to [Thomas R. Bohuslav's November 16, 2007 memorandum*](#) for additional information about purchase of surplus materials.

NOTE: *Available through the CST Intranet only.

Contractor Regional or Area Office Overhead

Regional offices of larger contracting organizations, such as a division, may manage projects in its territorial jurisdiction. The corporate office has a very limited role in activities on the projects. In this situation, the regional office expenses are not considered to be project overhead; they are treated as home office overhead.

However, as stated in "Project Overhead - Definition," project overhead can also include items such as superintendents and surveyors directly supporting multiple contracts in an area. These costs can be project overhead (not home office overhead). If so, these costs should be distributed between projects.

What is not compensable under the Federal Aid Policy Guide and department policy?

The following items are not compensable:

- interest on loans and borrowed money
- separate request for fuel for equipment is not compensable as rental operating rates include fuel (escalation costs will be addressed in a separate document)
- company public relations and advertising costs
- entertainment cost
- fines and penalties
- lobbying cost and association dues
- losses on other projects

Verify that home office overhead items are not included in project overhead or duplicated in labor burden.

Payment of project overhead costs should not be made until the baseline schedule completion date has passed. However, in rare cases, when an excusable compensable delay is encountered or where the originally anticipated work must be accomplished within an intentionally shorter period than the original schedule, it may be advantageous to the department to pay to accelerate the project.

Payment of delay damages should be based upon a reasonable, obtainable baseline schedule and the delay must be compensable (due to an issue for which the department is responsible). Initial acceptance of the baseline schedule does not obligate the department to pay damages based upon that schedule. Payment should be computed based on a daily rate, but may be paid on a daily or monthly rate. If paying a monthly rate, the first and final month's payments should be pro-rated based upon calendar days.

The attachments provide examples of typical project overhead items and contractor submissions.

Attachment A - Example of Project Overhead Breakdown

Attachment B - Typical Project Overhead Items for Delay

Contact Information

If you have any questions about the article contents, please contact Ken Barnett, P.E., at 512/416-2456.

Attachment A - Example of Project Overhead Breakdown

Delay Period Cost Detail							
	Payroll	Service	Equipment	Purchases	Other	Total	Remarks
a) Time-Dependent							
Superintendence							
Superintendent Salary	\$13,884					\$13,884	
Support Staff							
Surveyor (Sharing 2 proj.)	\$4,288					\$4,288	
Record Keeper	\$6,788					\$6,788	
Lab Asst.	\$4,892					\$4,892	
Site Facilities							
Drinking Water		\$90				\$90	
Waste Disposal		\$486				\$486	
Telephone		\$90				\$90	
Cell Phone		\$168				\$168	
Electricity		\$1,888				\$1,888	
Yard Security		\$120				\$120	
Shop/Yard Lease		\$328				\$328	
Office/Lab Trailer Lease		\$218				\$218	
Storage/Tool Shed Lease		\$188				\$188	
Office Supplies/Postage				\$160		\$160	
Equipment							
Superintendent Vehicle					\$4,740	\$4,740	Veh Allowance
Service Trucks (2) *			\$2,388			\$2,388	Stand-by
Fork Lift (Yard)			\$2,128			\$2,128	Stand-by
Sub Totals	\$29,852	\$3,576	\$4,516	\$160	\$4,740	\$42,844	
Labor Burden 35%	\$10,448					\$10,448	
Total	\$40,300	\$3,576	\$4,516	\$160	\$4,740	\$53,292	
Overhead Cost Calculation (Calendar Day Workweek Example)							
No. of Calendar days impacted		111					
Weekend/holidays		(34)					
No. of days to compute daily rate (WD)		77					
Project Overhead per WD		\$692					
Time Extension Calculation (Standard Workweek Example)							
No. of Calendar days impacted		111					
Weekend/holidays		(34)					
Weather		(14)					
Net Working days		63					
Project Overhead per WD		\$846					

Attachment B - Typical Project Overhead Items for Delay

Compensable As Project Overhead	
Description	Comments
SUPERVISION (Salary & Labor Burden)	Include Superintendent (exclude foremen chargeable to work item(s))
CLERICAL (Salary & Labor Burden)	
YARD SITE LEASE	Include rent cost, not purchase price or barter
OFFICE TRAILER	Include rent cost or value of depreciation due to delay ¹ , not purchase price
STORAGE SHED	Include rent cost or value of depreciation due to delay ¹ , not purchase price
YARD FUEL TANKS	Include rent cost or value of depreciation due to delay ¹ , not purchase price
YARD FENCE & MATL.	Include rent cost or value of depreciation due to delay ¹ , not purchase price
YARD SECURITY SERVICE	
TxDOT OFFICE & LAB	Include rent cost or value of depreciation due to delay ¹ , not purchase price
YARD FENCING	Include rent cost or value of depreciation due to delay ¹ , not purchase price
WASTE DISPOSAL	
ELECTRICITY	
SANITARY FACILITIES	
DRINKING WATER & ICE	
WATER & SEWER	
TELEPHONE SERVICE	
RADIOS	Rent of radio base station only
MOBILE PHONES	Monthly rental for overhead staff and TxDOT
GENERAL OFFICE SUPPLIES	
OFFICE FURNITURE	Include rent cost or value of depreciation due to delay ¹ , not purchase price
JOB PROGRESS PHOTOS	Include if directed by TxDOT and not paid
POSTAGE	
COMPUTER SUPPLIES	
PLANS & SUPPLIES	
JOB COMPUTERS	Include rent cost or value of depreciation due to delay ¹ , not purchase price
ENGINEERING	Only time spent for impacted work
QUALITY CONTROL	Only time spent for impacted work
SURVEY	Only time spent for impacted work
OUTSIDE ENGINEERING	Only time spent for impacted work
SAFETY SUPERVISOR	Only if dedicated to specific project and performs no other function
TRAVEL, MEALS, RELOC.	
MECHANIC & TRUCK	Only if Blue Book Rental Rates not paid as operating or stand-by
SERV. TRUCK & OPER.	Only if Blue Book Rental Rates not paid as operating or stand-by
NOT Compensable As Project Overhead	
Description	Comments
VACATION/HOLIDAY PAY	Component of labor burden for project staff, however, overhead staff labor burden is compensable
SIGNS, CONES	Component of item 502
YARD SITE PREP.	Component of Mobilization ²
SAFETY INCENTIVE	Component of labor burden
EMPLOYEE TRAINING	Component of home office overhead, labor burden or charged to item of work
SURVEYING EQUIP. SPECIALISTS	Component of home office overhead or charged to item of work
EMPLOYEE PHYSICALS	Component of home office overhead or labor burden
DRIVING RECORD CHECK	Component of home office overhead or labor burden
MEDICAL COSTS	Component of home office overhead or labor burden
SMALL TOOLS	Overhead. However, ordinarily consumed on project
JOB EQUIP. REPAIRS	Component of Blue Book Rental Rates
EQUIP. HAULING COST	Component of Mobilization
UNLOAD & SETUP EQUIP.	Component of Mobilization
SAFETY SUPPLIES	Overhead. However, ordinarily consumed on project

Notes: 1. For depreciation, consider the loss of salvage value due to extended duration only for overhead equipment purchased and not consumed on the project. If the equipment would have been consumed (\$0 salvage value) with the original contract time then no additional compensation is justified.

2. Yard site preparation and/or parking area is a one-time expense that is overhead but not compensable for delays as the expense is not affected by the delay.